THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 4374 of 2005

DATED:08-11-2005

Between:

D. Prasad S/o. Late Deevola Williams
R/o. D.No. 20-2-599, Korlagunta, Tirupathi, Chittoor District.

..... PETITIONER

AND

1 The Superintendent of Police, Chittoor District.
2 The Station House Officer, Tirupathi East Police Station, Tirupathi, Chittoor District.

.....RESPONDENT(S)

THE HONOURABLE MS JUSTICE G.ROHINI

W.P.NO.4374 OF 2005

ORDER:

This writ petition is filed seeking a declaration that the alleged action of the second respondent in registering the case in Crime No.309 of 2004 dated 13-12-2004 under Section 353 IPC in spite of the specific allegations made in the complaint that the accused has abused him by taking the name of his caste is arbitrary and illegal.

It is not in dispute that on the basis of a complaint made by the petitioner against one S.Anand Naidu, the second respondent has registered Crime No.309 of 2004 and the investigation was taken up. The grievance of the petitioner appears to be that in spite of the specific allegations made by him in the complaint that the accused has abused him by taking the name of his caste, the second respondent has deliberately registered the crime only for the offence punishable under Section 353 IPC and no steps have been taken for prosecuting the accused under the provisions of SC ST (Prevention of Atrocities) Act,1989 (in short 'the Act'). Hence, this writ petition.

In response to the Rule nise order, the Sub Inspector of Police, Tirupathi East Police Station, Chittoor District filed a counter affidavit denying the allegations made by the petitioner and stating that after completion of the investigation in Crime No.309 of 2004, the charge sheet has been filed in the Court of the II Additional District Munsif Magistrate, Tirupathi on 20th January,2005 which was numbered as C.C.No.49 of 2005 and the same is pending for trial. It is further stated that the petitioner produced Xerox copy of Caste Certificate and requested the respondents to take action against the accused under the provisions of the Act and accordingly the second respondent made a requisition before the learned II Additional District Munsif Magistrate, Tirupathi on 15-3-2005 requesting to accord permission to take up further investigation by the competent authority under the provisions of the Act.

However, the Court vide orders dated 4.4.2005 in Criminal M.P.No.1133 of 2005 in C.C.No. 49 of 2005 rejected the requisition on the ground that there were no material grounds to allow the petition at that belated stage with an improved version.

From the averments made in the counter affidavit, it is clear that the respondents have already taken the necessary steps but the trial Court having considered the entire material available on record refused to grant permission to prosecute the accused under the provisions of the Act. Hence, the alleged inaction on the part of the respondents cannot be accepted and the relief as prayed for cannot be granted.

Accordingly, the writ petition is dismissed. No order as to costs.

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08-11-2005

Stp